

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PATRICK CONNALLY,

No. C 15-5804 CRB

Plaintiff,

**ORDER ADOPTING REPORT AND  
RECOMMENDATION**

v.

NOB HILL GRILL, at al.,

Defendants.

This Americans with Disabilities Act case was originally brought by Plaintiff Patrick Connally, a person with physical disabilities, alleging that Defendants denied him access to the Nob Hill Grill because the entrance and restrooms were insufficiently accessible. See Report and Recommendation (“R&R”) (dkt. 28) at 1. Patrick Connally has since passed away. See id. His brother, Michael Connally, has filed a Motion to Substitute (dkt. 15) and a Motion to Amend the Complaint (dkt. 18) to add a man named Harrison Kinney—who was with Patrick Connally when he allegedly encountered physical barriers at the Nob Hill Grill—as a plaintiff. For the following reasons, and after reviewing the parties’ submissions and the relevant authorities, the Court ADOPTS the report and recommendation of the magistrate judge and DENIES both motions on standing and mootness grounds. See R&R.

During the pendency of these motions, Kinney has filed his own lawsuit, see Harrison Benjamin Kinney v. Nob Hill Grill, et al., No. 16-cv-3211, which has been related to this case. The Court agrees with the magistrate judge’s conclusion that Kinney’s lawsuit renders both

1 motions here moot. See R&R at 3–4; Gardner v. Martino, 563 F.3d 981, 990 (9th Cir. 2009).  
2 Plaintiff has not identified controlling authority to the contrary in its submissions to the  
3 magistrate judge or in its objection to the report and recommendation here. See R&R;  
4 Plaintiff’s Objection (dkt. 30).<sup>1</sup> The Court thus ADOPTS the report and recommendation of  
5 the magistrate judge and DENIES both the Motion to Substitute and the Motion to Amend.

6 **IT IS SO ORDERED.**

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8 Dated: July 20, 2016



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10 CHARLES R. BREYER  
11 UNITED STATES DISTRICT JUDGE  
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28 <sup>1</sup> Furthermore, although the Court need not reach this issue, Plaintiff and Kinney have not  
established standing. See Parr v. L & L Drive-Inn Rest., 96 F. Supp. 2d 1065, 1083 (D. Haw. 2000).